HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1154 (S/S) 2006

1. Smt. Leela Yadav W/o J.N. Yadav,
   Presently posted as Staff Nurse in
   Community Health Centre, Laksar,
   Roorkee, District Haridwar.
2. Sri J.N. Yadav, S/o late R.P. Yadav,
   Presently posted as Pharmacist in
   Community Health Centre, Laksar,
   Roorkee, District Haridwar. --Petitioners.

Versus

1. Union of India, through its Chairman,
   Central State Advisory Committee Gate no. 31,
   Jawahar Lal Nehru Stadium, Lodhi Road, New Delhi,
2. Union of India, through --Respondents.

Sri Vivek Shukla, learned counsel for the petitioners,
Smt. Anjali Bhargava, learned Standing Counsel for Union of India/respondent nos. 1 & 2,
Sri Paresh Tripathi, learned Standing Counsel for the State of Uttaranchal/respondent nos. 3 & 4,
Smt. Beena Pandey, learned Standing Counsel for the State of U.P./respondent nos. 5 & 6.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Vivek Shukla, learned counsel for the petitioners, Smt. Anjali Bhargava, learned Standing Counsel for Union of India/respondent nos. 1 & 2, Sri Paresh Tripathi, learned Standing Counsel for the State of Uttaranchal/ respondent nos. 3 & 4 and Smt. Beena Pandey, learned Standing Counsel for the State of U.P./respondent nos. 5 & 6.

By the present writ petition, the petitioners have prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent no. 3 & 4 to relieve the petitioners for State of U.P. with

immediate effect in pursuance of their options for retaining their services in the State of U.P. as well as in view of the order no. 05/2006,

ii. Issue any other writ, order or direction, which be deemed fit and proper under the facts and circumstances of the case in favour of the petitioners,

iii. Award cost of the writ petition to the petitioners.

Submission of the learned counsel for the petitioners is that the petitioner no. 1 is posted as Staff Nurse in Community Health Centre, Laksar, Roorkee, District Haridwar and her husband is posted as Pharmacist in Community Health Centre, Laksar, Roorkee, District Haridwar. Being the permanent residents of State of Uttar Pradesh, the petitioners have opted for the State of Uttar Pradesh and accordingly, they have been finally allocated for State of Uttar Pradesh.

Smt. Anjali Bhargava, learned Standing Counsel for Union of India has also submitted that the petitioners have been allocated finally for State of Uttar Pradesh.

Counsel for the petitioners has submitted that in spite of the order passed by Union of India, allocating finally the petitioners for State of Uttar Pradesh, they are not being relieved by the State of Uttaranchal. Counsel for the petitioners has placed reliance on the **Division Bench judgment passed on 22nd April 2006 in writ petition no. 131 of 2006 (SB) Dr. Rakesh Kumar and two others vs. Union of India and five others** wherein Hon'ble the Division Bench of this Court has directed the State of Uttaranchal to relieve the petitioners in that writ petition, forthwith in order to enable them to join their duties to the State of Uttar Pradesh.

Since, in this case, as per the submissions made by the learned counsel for the petitioners as well as by Smt. Anjali Bhargava, learned Standing Counsel for Union of India the petitioners have already been allocated finally for State of Uttar Pradesh, the respondent no. 4 is, therefore, directed to relieve the petitioners to the State of Uttar Pradesh, if possible within a period of three months from the date of production of a certified copy of this order, to enable them to join their duties there. The respondent, while relieving the petitioners and other similarly situated persons in the Department from State of Uttaranchal, shall adopt criteria for relieving the employees to the State of Uttar Pradesh.

The Stay Application no. 10836/06 stands disposed of accordingly.

With this direction, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

August 24, 2006:
NCM: